

## REMARKS

Claims 1 and 3-7 are pending in the Application. Though no claims have been amended with this Response, Applicant respectfully presents the above claim listing for the Examiner's convenience. The Examiner's rejections will now be addressed in turn.

### Claim Rejections under 35 U.S.C. 103(a)

Claims 1 and 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahbub (US 6,961,443) in view of Okada et al. (US 6,239,695). As amended herein claim 1 now contains the limitations of claim 2; thus, claim 2 has been cancelled.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicant's claim 1 recites inter alia:

“wherein said image evaluation unit evaluates a situation image, which has been recorded by the imaging system, on the basis of contours and/or edges contained in said situation image”

Neither Mahbub nor Okada, taken alone or in combination, teach evaluation of a **recorded** situation image on the basis of contours and/or edges contained in the **recorded** image. At page 5 of the Office Action the Examiner references text that begins at column 10 of Mahbub as evidence that Mahbub teaches 2D analysis of images. While Applicant acknowledges that 2D images are discussed at this passage of Mahbub, Applicant

respectfully traverses the Examiner's apparent allegation that these 2D images are contained in a **recorded** image such as that required by Applicant's claim 1.

In fact Mahbub clearly states in column 10, lines 49-51, that the 2D features are calculated on the three projections of the ROI in order to provide substantial shape information. The Mahbub teachings go on to describe several "Moments" to be calculated from the projections, which are clearly indicated as shape descriptors (col. 10, lines 56-57, col. 11, lines 6-7, lines 18-20 etc.).

It respectfully follows that the 2D features disclosed by Mahbub are calculated from projections of the recorded images *as opposed to the recorded images themselves*, and clearly relate to the description of the 3D shape of the objects detected in the scene. Once the objects are classified by the method disclosed by Mahbub, there is no need for further evaluation based on any contours and edges contained in the recorded image. Hence, it is respectfully asserted that Mahbub actually teaches identification of features based on 3D shape (see Applicant's previous Response of May 26, 2009), and thus teaches away from evaluating "a situation image on the basis of contours and/or edges contained in said image" as is required by the current claim 1.

Applicant respectfully points out that Okada is merely used by the Examiner to teach a warning device, and therefore does not remedy the above discussed deficiency of Mahbub.

For at least the reasons discussed above, Applicant respectfully asserts that the proposed combination of Mahbub and Okada does not teach or suggest all of the limitations of Applicant's claims 1 and 3-7. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 1 and 3-7 with respect to the proposed combination of Mahbub and Okada.

## Conclusion

Applicant respectfully submits that the Examiner's objections and rejections are herein overcome. Applicant respectfully requests withdrawal of all rejections and objections and issuance of a Notice of Allowance.

Applicant hereby petitions under 37 C.F.R. §§1.136, 1.137 for any extension of time necessary for entry and consideration of the present Response.

If there are any charges with respect to this amendment, or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicant's attorneys.

The Examiner is invited to contact Applicant's attorneys at the below telephone number regarding this Response or otherwise concerning the present application.

Respectfully submitted,

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